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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,635	02/23/2004	Stuart Neale	DN 3721	8174
2128 7590 11/04/2008 HAVERSTOCK, GARRETT & ROBERTS LLP 611 OLIVE STREET SUITE 1610 ST. LOUIS, MO 63101				
EXAMINER				
YOO, JASSON H				
ART UNIT		PAPER NUMBER		
3714				
MAIL DATE		DELIVERY MODE		
11/04/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/784,635

Applicant(s)

NEALE ET AL.

Examiner

Jasson H. Yoo

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-6, 12, 13, 18-21, 23 and 25-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-6, 12-13, 18-21, 23, 25-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 3-6, 12-13, 18-21, 23, 25-38 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 3-6, 12-13, 18-21, 23, 25, incorporate the limitation of, "interpreting said position input from said user interface and determining an event based solely on said possession input". However, applicants' specification does not disclose events are determined based *solely* on possession input nor disclose without other identification of an associated event Applicant's specification specifically discloses that the user can also enter game events (paragraphs 10, 40-42). Claims 26-36 are rejected for similar reasons as discussed above. Claims 26-32 incorporate the limitation of, "without other identification of an associated event" and claims 33-38 incorporate the limitation of, "'with no intervening input by a user of other user inputs". However, applicant's specification discloses associated events and intervening inputs may be inputted to determine an event (paragraphs, 10, 40-42).

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3-6, 12-13, 18-21, 23, 25-32, 24-32, 34-35, 37-38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 3-6, 12-13, 18-21, 23, 25, incorporate the limitation of, "interpreting said possession input from said user interface and determining an event based solely on said possession input". However, the claims also indicate that one or more types of event input related are received from the user interface. The system cannot track an event based solely on said possession input if the system also receives event input to determine an event. Claims 26-32 incorporate the limitation of, "without other identification of an associated event" and claims 34-35, 37-38 incorporate the limitation of, ""with no intervening input by a user of other user inputs". However, the claims also indicate that the system incorporates event inputs. The system cannot track an event without other identification of an associated event if the system also receives event input to determine an event.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 12-13, 18-19, 21, 23, 25-36 are rejected under 35 U.S.C. 102(b) as being anticipated by Descalzi (US 6,148,242).

Claim 21. Descalzi discloses a system for real-time tracking and recording events of a sports contest with a primary object of play, the sports contests including offensive and defensive competitive interaction between at least a first team and a second team in opposition therewith, each team having at least one player, comprising (real-time tracking device 10 in Fig. 1 is used to track and record a basketball event, see abstract):

at least one computer including a processor portion (26 in Fig. 1), and a user interface portion (keypad 31 and LCD 32 in Fig. 11), said computer interactively operable with a user under control of a computer program associated with said processor portion thereof,

a computerized database (stored in data storage 29 in Fig. 11) accessible through said computer program, said database including information therein indicative of recorded events of the sports contest (abstract, cols. 2:55-3:10, 7:1-7),

said computer program including a game module for controlling entry by the user of information during the sports contest, said game module operable to interpret the information regarding sports contest activities selectably entered by the user (abstract, cols. 2:55-3:10, 5:7-38, 5:63-6:10),

said computer programmed for

receiving from said user interface, one or more types of possessions input related to a plurality of events of sports contents, said possession input indicating the player in possession of the primary object of play [The term "possession input" is interpreted as inputs related to the location of a ball. Descalzi discloses user input keys to indicate the location of the ball (col. 3:52-64). For example, "possession input" such as keys to indicate field goals, rebounds, turnovers, rebound, assists, steal (cols. 3:52-64, 4:44-52), indicate a player is in possession of the ball.],

interpreting said possession input from said user interface and determining an event based solely on said possession input [The "possession inputs" such as keys indicate field goals, rebounds, turnovers, assists, steals is interpreted as an event (i.e. field goal input is interpreted as a field goal event, rebound input is interpreted as a rebound event)].

receiving from said user interface, one or more types of event input related to a plurality of events of the sports contest (cols. 2:55-3:10, 5:7-38, 5:63-6:10),

interpreting said event input from said user interface (cols. 2:55-3:10, 3:55-67, 5:7-38, 5:63-6:10), and

storing data representative of said events based on possessions input and said events based on event inputs in said database (col. 7:1-7).

Claims 23 and 25. Descalzi discloses a method and a system for tracking and recording event of a fast paced or timed sports contest in real-time, the sports contest including a primary object of play and offensive and defensive competitive interaction

between at least a first team and a second team in opposition therewith, each team having at least one player (See rejection for claim 21 above. Furthermore, a live basketball game is fast paced and timed. Descalzi further discloses a game clock and recording game periods, cols. 4:41-5:38), comprising:

at least one computer user interface including a processor portion (26 in Fig. 1),, a display portion, and an information entry portion, said computer user interface interactively operable with a user interface (keypad 31 and LCD 32 in Fig. 11),,

said computer program including a game module operable for translating a series of user inputs into a series of sports contest events (col. 3:52-54),

said computer user interface operable in accordance with said game module for: accepting from the user at least one entry of information related to a plurality of events of the sports contest, the at least one entry representative of information including an officiating indication, a player in possession of the primary object of play a method and a system for tracking and recording event of a fast paced or timed sports contest or an event (The system accepts at least one entry which includes an event, col. 3:52-54. More specifically, a user uses the touch keys to record "actions" or game events.),

interactively responding to the at least one entry of the user and communicating therewith to establish a particular event by:

deducing the particular event based solely on a series of entries representative of the player in possession of the primary object of play, or

deducting the particular event based on at least one entry representative of the player in possession of the primary object of play and a different event, **or** interactively eliciting and responding to additional entries representative of information related to the plurality of events from the user by display, for selection by the user, additional choices based on the at least one entry until the particular event is determined, **or** recognizing the at least one entry as the particular event (A user uses the touch keys to record "actions" or game events, col. 3:52-54. Thus the system recognizes the the entry as a particular event, cols. 3:55-64, 5:7-14),), displaying the particular event for verification by the user (col. 5:7-14), storing the particular event in said database (col. 7:1-7).

Claim 12. Descalzi discloses the system includes remotely accessible information regarding the sports contest and wherein said computer is programmed to obtain said remotely accessible information prior to commencement of the sports event and to store said information in said database (Descalzi discloses data may be transferred between the system and a personal computer, col. 4:9-14. More specifically, Descalzi discloses program code is downloaded into the system from the computer, col. 6:58-67).

Claim 13. Descalzi discloses the computer is programmed to send information regarding the sports contest to remote computers, (cols. 4:9-14, 6:58-67).

Claim 18. Descalzi discloses a report module operable to interact with a user through said user interface to interactively access information from said database to produce reports related to said sports contest (cols. 4:41-5:57).

Claim 19. Descalzi discloses a recording portion that stores a recording of the sports contests, said recording being time synchronized with the data stored in said database (users inputs are time synchronized with the data stored in the database because the inputs are recorded and stored as the event occur, col. 2:59-60. The recorded inputs are also displayed based on the time period, col. 5:29-37).

Claim 26. Descalzi discloses a system for real-time tracking and recording during continuous play activity of fast-paced events in a team sports contest involving movement by cooperative actions of team members of a game object for the purpose of securing a team score by advancing the game object to or through a goal object, including the automated determination and recordation of certain non-scoring events that occur during the course of the team sports contest, based upon the input by a user of identification information of team members who effect movement of the game object, without the necessity for operator input specifically identifying the occurrence of such non-scoring events (real-time tracking device 10 in Fig. 1 is used to track and record a basketball event, see abstract, cols. 2:59-60);, comprising:

a computer including a processor portion and a user interface portion (26 in Fig. 1, and keypad 31 and LCD 32 in Fig. 11),

a database (data storage 29 in Fig. 11), associated with and accessible by said computer, in which information regarding the team sports contest can be recorded, including information indicative of the game status of the team sports contest at given points in time (abstract, cols. 2:55-3:10, 7:1-7),

said computer being operable to enable and control interactive communication between said computer and a user during the course of the team sports contest and being responsive to user inputs at said user interface portion to update the information recorded in said database and the game status of the team sports contest (responsive to the touch keys, cols. 3:50-64, 5:8-15), said user inputs including the identification of specific events (cols. 3:52-64, 4:44-52), including specific scoring events (points, col. 4:48), as well as inputs during the course of the team sports contests providing identification of team members effecting movement of the game object without other identification of an associated event [The term associated event is interpreted as events that are related to the game object. For example: "gaming events" is related to an event to the game object and hence considered as "an associated event". Inputs that describe the movement of the ball can be entered without the input of other gaming events (cols. 3:52-64, 4:44-52). For example, the input of a rebound (col. 3:57) may be entered and recorded as player makes a rebound, without the identifying that the player also attempted a shot (col. 3:58).],

said processor portion of said computer having a computer program associated therewith for controlling the operation of said computer, said computer program having a game module portion associated therewith including information specific for such team sports contest (the computer program comprises a game module portion in order to record "action" or game events, col. 3:55-57),

said computer operable in accordance with said game module portion to associate with certain user inputs that provide identification information of team members who effect movement of the game object, under game status conditions at such times, particular non-scoring events (user can input that provides information of team members who effect movement of the ball such as turnovers, rebounds, block steals, cols. 3:52-64, 4:44-52).

said computer programmed to
recognize during continuous play activity certain user inputs selectably made by a user at said interface portion of said computer providing identification information of team members effecting movement of the game object (recognize actions or game events of team members that effect movement of the ball, cols. 3:52-64, 4:44-52), under certain game status conditions, as being associated with the occurrence of particular non-scoring events in the team sports contest (cols. 3:52-64, 4:44-52 discloses non-scoring events such as rebounds, turnovers, steals),

establish the occurrences of such particular non-scoring events at such points in time during the course of the continuous play activity of the team sports contest (actions are recorded during a game, col. 5:8-9),

store within said database data representative of the occurrences of said establish events at such points in time during the course of the continuous play activity of the team sports contest (abstract, cols. 2:55-3:10, 7:1-7),,

whereby a user can effect, during the course of the continuous play activity of a fast-paced team sports contest, the tracking and recording of actions relative to the movement of a game object by and among the members of the teams and the possession and advancement towards a score of the game object by the teams without the necessity for separate, specific inputs by a user identifying all the separate, specific non-scoring events occurring [Inputs that describe the movement of the ball can be entered without identifying all the separate specific non-scoring events cols. 3:52-64, 4:44-52). For example, the input of a rebound (col. 3:57) may be entered and recorded as player makes a rebound, without the identifying that the player also attempted a shot (col. 3:58).].

Claim 27. Descalzi discloses the computer is programmed, upon user inputs providing identification information of the first and second team members during the course of the continuous play activity of the team sports contest with no intervening input by a user of other game object information associated therewith the occurrence of a movement of the game object from the first team member to the second team member [Descalzi discloses user inputs providing identification information of the first and second team members during the course of the continuous play activity (first team member attempts a shot, and second team member obtains an offensive rebound, cols.

3:55-60, 4:44-5:15). No other intervening inputs other than the inputs that a first team member attempted a shot and a second team member obtains an offensive rebound are required. For example, the speed of the movement of the ball is not required.].

Claim 28. See rejection for claim 27 above. Descalzi discloses inputs of a second team member can be entered (steal, blocked shots, defensive rebound, col. 4:48-54).

Claims 29, 34,35. Descalzi discloses the computer is programmed upon user inputs identifying the occurrence of a score, to accord the achievement of such score to the team member whose identification information was most recently provided as a user input by the user (col. 3:55-60, 4:4:64-5:15).

Claims 30-32. See rejection for claim 26. Descalzi discloses the system is used for tracking a basketball game.

Claim 33. See rejection for claims 26-28 above.

Claim 36. Descalzi discloses the selection available to the user during continuous play include a whistle input entry, said whistle input entry constituting at least one game interruption entry (time out, Fig. 1, and col. 4:56-60, 5:6)

Claim 37. See rejection for claims 21, 23, 25-26-28 above.

Claim 38. Descalzi discloses the program is operable for determining the status of the sports contest at any given point in time based on previous possession [Descalzi discloses offensive and defensive events (col. 4:45-56). Offensive and defensive events are based on previous possession. For example blocked shots and defensive rebounds steals turnovers, are based on ball being previously possessed by the other team.], event and officiating inputs and determination effected in accordance with step b is effected based only upon the status and the possession input entered in step a [As discussed above, inputs that describe the movement of the ball can be entered without identifying all the separate specific non-scoring events cols. 3:52-64, 4:44-52). For example, the input of a rebound (col. 3:57) may be entered and recorded as player makes a rebound, without the identifying that the player also attempted a shot (col. 3:58)].

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Descalzi (US 6,148,242).

Claims 3-6. Descalzi discloses the claimed invention as discussed above. Descalzi further discloses a user input device such as a keyboard is used for the real-time tracking and recording system. However, Descalzi fails to specifically teach a mouse, a touch sensitive screen, a stylus, and an audio input is used as the user interface. Nevertheless a mouse, a touch sensitive screen, a stylus, and an audio input are well known user interfaces. Such interfaces are commonly used together or interchangeably in order to facilitate a user to input data onto a computer. Therefore it would have been obvious to one of ordinary skill in the art to at the time the invention was made to incorporate different user input devices in order to improve the system for real-time tracking and recording of event in a sport contest as taught by Descalzi in order to provide the predictable result of facilitating the user to input data onto the system.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Descalzi (US 6,148,242) as applied to claim 21 above, and further in view of Russo (US 6,710,713).

Claim 20. Descalzi discloses a system for real-time tracking and recording events of a sports contest as discussed above. However, Descalzi fails to teach that the system further comprises a location sensing portion and said computer program further comprising a motion module, the location sensing portion operable to relay spatial position information related to the sports contest to said motion module, said

motion module operable to translate said spatial position information into data related to the sports contest storable in said database. Nevertheless, the use of location sensors to track and record sporting events is well known in the art. In an analogous art to real-time tracking and recording events of a sports contest, Russo discloses a system comprising a location sensing portion (cols. 3-6, Fig. 4) and said computer program further comprising a motion module (cols. 3-6, Fig. 4), the location sensing portion operable to relay spatial position information related to the sports contest to said motion module, said motion module operable to translate said spatial position information into data related to the sports contest storable in said database (130 in Fig. 1). The sensing portion and motion module allows activities such as velocity, acceleration, and response time of individual sport players to be accurately measured. Such measurements may be used for evaluating the performance of an athlete (col. 1:26). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Descalzi system for real-time tracking, and incorporate Russo's location sensing and motion module, in order to provide the predictable result of measuring and evaluating the performance of an athlete.

Response to Arguments

Applicant's arguments with respect to claims 3-6, 12-13, 18-21, 23, 25-38 have been considered but are moot in view of the new ground(s) of rejection. Although the same reference was relied upon, a new rejection was made based on new claim interpretations and new claim limitations.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jasson H. Yoo whose telephone number is (571)272-5563. The examiner can normally be reached on 9:00am - 5:00am.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dmitry Suhol can be reached on (571) 272-4430. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dmitry Suhol/
Supervisory Patent Examiner, Art
Unit 3714

JHY